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Place Overview & Scrutiny Committee

Monday, 14th March, 2022

6.00 pm

Town Hall, Blackburn

AGENDA

1. Welcome and Apologies

To welcome those present to the meeting and to receive apologies for absence.

1.1 Declarations of Interest

To receive any declarations of interest in items on the agenda.

2. Minutes of the meeting held on 13th September

To approve as a correct record and to sign the minutes of the meeting held on 13th September 2021.

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3. Trees

To receive a report and presentation on trees and related issues.

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4. Review of the Committees Work Programme

To review the work of the Committee for the municipal year.

Date Published: 6th March 2022
Denise Park, Chief Executive

Agenda Item 2

Place Overview and Scrutiny Committee

13th September 2021.

Present: Councillor Khonat, in the chair, Councillors Oates Sidat, Taylor, and McFall

Also Present: Martin Eden, Director of Place

Gavin Prescott, Head of Development and Planning

Paul Conlon, Democratic Services.

1. **Welcome and Apologies**

The Chair welcomed those present to the meeting and received apologies from Councillors Humphrys and Zamir Khan.

2. **Declarations of Interest**

There were no declarations of interest received.

3. **Minutes of the meeting held on 13th July 2021.**

The minutes of the meeting held on 13th July were submitted. The attention of the committee was drawn to the feasibility study for the Queens Park area and it was agreed that the information would be provided to the committee.

Resolved- that the minutes of the meeting held on 13th July were approved as a correct record and signed by the chair.

4. **Environmental Impact on neighbourhoods of land and property that are not maintained and actions the Council can take to mitigate this.**

The Committee received a presentation on the work of the Place area on the way that the Council can take action to ensure that the actions taken to on land not owned by the Council to improve the environment. The committee looked at what actions could be taken where private owners were failing with their duty to maintain the property and were having a detrimental effect on the whole of the community.

Members were informed of the powers that the Council had at their disposal and how these could be used to drive improvements.

These were-

- Town and Country Planning Act 1990 – Section 215
- Building Act 1984
- Housing Act 1985, Section 17 – Compulsory Purchase Orders (CPOs)
- Environmental Protection Act 1990 – Section 59, 80,
- Anti-Social Behaviour Crime & Policing Act 2014 – Section 43 – 58
- Public Health Act 1936 – Section 78

- Prevention of Damage by Pests Act 1949

The Committee looked at examples that had resulted in improvements in the borough and the way that the officers had worked to land owners to ensure that they fulfilled their legal duties and the steps that had to be taken under each power should negotiations not produce results. The Committee were informed of the limits of powers and the duty of the magistrate's court to consider cases brought by the Council. The level of fines that were imposed by courts was discussed and the way these differed from case to case and personal circumstances. The level of deterrent was discussed and the alternative wordings that could assist in delivering a tougher message was discussed and that people had to be made to think before they failed to take action.

The Committee discussed the issues that related to adopted highways and cleaning and especially back alleys. Members highlighted the issues that they faced from residents bringing them issues which related to un-adopted areas covering and how many of them were unaware of their responsibilities and requirements as the land owners.

RESOLVED-

1. That the officers be thanked for their informative and helpful presentation
2. That the Director of Place be requested to draw up a list of the top ten hot spots for members information and the possible actions that we could use to make a difference in these areas.
3. That ways of helping communities in keeping areas clean such as assisting in monitoring known dumping hotspots be considered and reported back to the Committee
4. That consideration be given to leaflets to be given to residents of areas adjoining non adopted highways informing them of the difficulties that the Council faces in cleaning non adopted back alleys and their responsibilities and the law.

5. Work Programme for the Committee

The Committee were informed that the following discussions with members and the chair, the next meeting of the Committee would look at trees and how these were dealt with in the borough. The Committee would also look at the effects of ash die back and the strategy for dealing with this.

RESOLVED-

That the arrangements for the next meeting of the Committee be noted.

Chair at the meeting where the minutes were signed.....

Date.....

BLACKBURN WITH DARWEN BOROUGH COUNCIL

Place Overview and Scrutiny Committee - 14th March 2022

Focus of the Committee - Trees

1. Overview of the state of trees in the borough and responsibilities of the Council

The Council is responsible for the care, development and maintenance of tens of thousands of trees owned by the Council, which are located in Council parks, open spaces and on the highway. We are committed to maintaining the health and longevity of all Council trees through appropriate management:

- Appropriate works will be undertaken on dead or unhealthy trees.
- Tree works is undertaken by fully qualified arborists, in line with management surveys and plans.

The Council does not generally undertake works to otherwise healthy and well-formed trees for reasons of:

- Size
- Leaf, seed, twig or flower litter
- Shade or blocked views
- Interference with transmitted signals, e.g. television, satellite channel access
- Honeydew exudation
- Reduced security by virtue of concealment
- Alleged root damage to property.

Trees may be protected by either a Tree Preservation Order (TPO) or by being in a conservation area. In either case, permission is required from the Planning service before any work can be carried out on these trees.

The Council does not maintain all land within the Borough, there are a number of different types of land:

Pavements and highway grass verges - It is the Council's responsibility to maintain all the trees in pavements in the borough.

Adopted land maintained by the Environment department - This is land owned by the Council and is maintained regularly. If the grass area is mown or the shrub area near or under the trees is being cut then the trees will be maintained by the green spaces team within Environmental Services.

Adopted land, not maintained – This is land that is owned by the Council but is not maintained regularly. If the land is not cut or shrubs are not pruned, the trees are then maintained by a different department.

Non-adopted land - This land has never been owned by the Council or by anyone else and is not the Council's responsibility.

Private land - This is land owned by someone else and is not the Council's responsibility.

Parks, cemeteries and woodlands - The Council will manage woodlands on public land in accordance with accepted forestry practices and traditional methods of woodland management, and with respect for their value as important landscape features, wildlife habitats and places that people enjoy.

2. Ash dieback and how we are proposing to deal with this?

Ash trees are the third most common tree in Britain, they are present in woodlands, hedgerows and parks and gardens across the country and have a cultural significance in our urban and rural landscapes. They are also a valuable habitats for over 1,000 species of wildlife. It is estimated that there are more than 60 million ash trees outside woodlands in the UK and that the majority will become affected with ash dieback in years to come.

The ash dieback disease causes leaf loss and crown dieback in affected trees, the disease does not cause rapid or catastrophic failure of trees. Any danger from dead or dying trees is likely to be gradual and obvious over a period of years. The main signs of ash dieback are:

- Loss of leaves
- blackening of leaves, which often hang limply on the tree
- discoloured stems, often with a diamond-shaped lesion where a leaf was attached
- dead branches
- trees may eventually drop limbs, collapse, or fall

Once a tree is infected, the disease is usually fatal - but occasionally trees show some resistance to the disease. The disease is particularly destructive to young trees, older trees can survive initial attacks, but can succumb, eventually, after several seasons of infection. Some older infected trees may be able to survive indefinitely, although they may be at increased risk of other infections.

To mitigate the risks associated with ash dieback, it is recommended that local authorities prepare an Ash Dieback Action Plan (ADAP) to respond to the problems that the affected trees will create.

The first stage in developing the ADAP is to identify the number and the condition of ash trees on Council owned public open space land and on or near the highway. Public safety must be the top priority when inspecting trees and assessing what action to take. Examples of locations where trees may present high levels of risks are: roads, car parks, railways, well-used public spaces, parks, playgrounds, school grounds and public right of ways. Trees in these locations should be inspected most

regularly. Where ash trees pose a low safety risk, for example trees in hedges between two fields with no public access, they should be left to decline naturally so they can continue to contribute benefits to the environment.

As one of the main symptoms of ash dieback is leaf loss, it is recommended to inspect for symptoms in the summer (June to September) when ash trees are in leaf. The inspection should record the percentage of crown 'missing' and where possible, photos should be taken to identify any changes in the condition of the trees between inspections.

The Council has a significant number of ash trees in its parks and open spaces and adjacent to highways. As landowner, the Council has a responsibility for the safety of users of the highway network and users of our parks and open spaces.

Once the Council has a register of trees and has identified which trees are affected by the disease, the appropriate works will be programmed to take place utilising the Council's 3-person tree team and if necessary, also contracting tree works to private sector arborists.

3. The process for reporting issues relating to trees and how reports are dealt with?

Anyone who has concerns or issues regarding a tree or trees can submit a report via the Council website, where a box to report tree or shrub problems is provided. Reports can also be made via social media channels or via the Council's contact centre. On occasion, Councillors also report concerns directly to Environment department.

All reports are logged and the reported trees are surveyed. The survey will identify if any work is required and the nature and the urgency of the work needed, if any tree works is required, the Council's tree team will undertake the work in priority order, dependent upon the risk identified.

4. What responsibilities do residents have for trees?

Residents are responsible for any tree within their property and have a have the common law right to prune vegetation (including roots) that crosses their boundary, so long as they observe the following:

- Before carrying out any tree work it is the resident's responsibility to ensure that there are no legal constraints such as Tree Preservation Orders or restrictions imposed within a Conservation Area. This can be checked by contacting the Council Planning department
- Residents may only prune the vegetation back to their boundary and then only if the work done is not detrimental to the long term health or stability of the tree or shrub.
- The work residents carry out does not destroy or make the tree unsafe. Cutting major roots will affect the stability of a tree and residents may be liable

if an accident occurs. The Council will take legal action if it is considered a Council owned tree has been recklessly or maliciously damaged in this way or via any other criminal damage.

- Residents should dispose of the cuttings responsibly, dumping them on Council land is unsightly and un-neighbourly and may constitute fly tipping.

Please see useful link to the Royal Horticultural Society website on trees and legislation:- <https://www.rhs.org.uk/advice/profile?pid=1022>

5. How we deal with our own stock of trees/ how do we manage them?

The Council's green spaces team undertake grounds maintenance work across the parks and cemeteries in the Borough. The Council also employs a grounds maintenance contractor to cut grass on open space land and verges across the Borough. The Council's green spaces team and the grounds maintenance contractor will report any concerns about the condition of trees they observe whilst carrying out their duties. However this is ad hoc and is secondary to the work they are undertaking on site, therefore it is not a substitute for undertaking proper tree surveys on a regular programmed basis.

The Council also has a team of 3 Arborists and 1 part time Arboricultural Officer who deals with all tree related queries, including TPO enquiries. The Tree team prioritise their work and primarily deal with reports of dead, dangerous or dying (DDD) trees. However, when on site reviewing a report of the defective tree, any neighbouring trees will be proactively assessed for defects. The current 'tree team' does not have the capacity to survey the Council's tree stock.

At Finance Council on 28 February 2022, approval was given for the recruitment of a full time Arboriculture Officer to survey all types of trees on Council owned land and their condition along with identification of any tree management works e.g. the pruning or felling of dangerous trees.

The tree survey would provide the Council with an asset register for all its trees and the information could then be used to support the development of a Tree strategy for the Borough. A Tree strategy would not only assist with the planting of additional trees to compensate for the loss of diseased ash trees, it would also make proposals for additional tree planting to mitigate climate change and make improvements to storm water management, air quality, biodiversity, noise abatement and visual amenity.

The Council must be proactive in the management of tree safety and prune or fell trees if they or their branches threaten to cause injury or damage. In order to meet this obligation, Finance Council has approved a budget of £120,000 pa to fund tree management works on dead or diseased trees. The tree management works would be undertaken by independent arborists as and when required to support the Council's 3-person tree team.

6. Management issues relating to Council owned trees

- There is a limited number of staff to look after the tens of thousands of trees across the borough.
- There is a limited number of trained arborists in the Lancashire area available to recruit to vacant posts we have from time to time in our tree service.
- We have recruited apprentices periodically, but it can take up to 5 years for someone to become a fully trained, qualified and experienced arborist.
- Climate change is adversely affecting trees with wetter weather and storms, as well as periods of drought affecting the health of trees.
- There are instances of criminal damage to trees in order to affect their removal for a variety of reasons including the creation of additional parking spaces and to aid private development.
- The Council does not have an asset register of trees on Council owned land with information about the type and the condition of the trees.
- The Council does not have a Tree strategy which would provide proposals for additional tree planting to mitigate the loss of ash trees and climate change and make improvements to storm water management, air quality, biodiversity, noise abatement and visual amenity.
- Tree planting has not yet been undertaken within the borough due to insufficient resources, although recent external bids have proved successful

The Council has recently established a Climate Emergency Officer group with representatives from across each portfolio. This group will oversee work on the development of a tree strategy and tree planting programme including engagement with residents, existing volunteers, residents and community groups across the Borough.

Martin Eden
Director of Place